

TECHNICAL ADVISORY GROUP ISSUE SUMMARY VARIANCE

Background

The proposed rules have a variance provision to address unforeseen or uncontrollable events affecting the ability of a major utility to meet both electricity generation and mercury emission reduction requirements. The rules do not provide a variance option for mass cap utilities (MGE, Excel, Mid-American, Manitowoc Utilities), mass cap industrial sources (combustion and process), or new sources.

Key Points

- A variance may be granted based on any one of the following; 1) major electrical supply emergency; 2) major fuel supply disruption; 3) unanticipated disruption in the operation of a fossil fuel fired boiler; 4) occurrence of an uncontrollable event; or 5) if reduction requirements in NR 446.06 are determined to be technologically or economically infeasible.
- The provisions in the proposed rules do not seem to accommodate granting a variance for a short-term event even if the acceptable circumstances for granting a variance are met. This is because the variance process is lengthy and did not seem to envision a need for short-term relief due to temporary disruptions, malfunctions, or variations in the system.
- The proposed variance process requires a public comment period and opportunity to request a public hearing prior to approval. Utilities are concerned about the uncertain final outcome and a potential lengthy period of noncompliance. The variance does not require approval by the Public Service Commission (PSC), but allows the department to consider PSC input.
- The variance provides for the department the ability to determine the validity of the request and an appropriate remedy to balance any shortfall in mercury emission reductions.
- Based on a fuel input compliance approach, the proposed rules ultimately require mercury emission reductions of greater than 90%. Since that level of mercury reductions has not yet been commercially demonstrated, it is important to have a variance provision in the rules.
- The addition of a longer compliance determination period (for example, a 36-month rolling average) would assist affected sources by allowing them to balance emission variations rather than having to request variances.
- If the variance can adequately address short-term issues, its concept should protect electric reliability.
- No reason has been identified to preclude extending a variance provision to other regulated facilities.